

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
KIMBERLY SUZANNE BERGMANN, ) CASE NO. 05-63534 JPK  
 ) Chapter 13  
Debtor. )

ORDER REGARDING DEFECTIVE NOTICE

On July 19, 2006, the debtor's counsel filed a copy of the notice provided to creditors and parties-in-interest regarding the debtor's Motion for Hardship Discharge filed on July 20, 2006.

The notice is defective in the following particulars:

1. It does not comply with N.D.Ind.L.B.R. B-2002-2(c)(2), in that it does not state the date upon which the motion was filed.
2. It does not comply with N.D.Ind.L.B.R. B-2002-2(c)(3), in that it does not "briefly and specifically state what you are asking the court to do".
3. It does not comply with N.D.Ind.L.B.R. B-2002-2(c)(5), in that it does not **state the date by which objections to the motion are to be filed**: the use of a designated number of days from a stated date does not comply with this rule. In addition, this practice unnecessarily invokes Fed.R.Bankr.P. 9006(f), by adding three days to the deadlines provided by N.D.Ind.L.B.R. B-2002-2(b).
4. It does not comply with N.D.Ind.L.B.R. B-2002-2(c)(6). Stating that "the court may decide that you do not oppose the motion" is not a statement "to the effect that if no objections are filed by the date due the court may grant the relief requested without holding a hearing".
5. It does not comply with N.D.Ind.L.B.R. B-2002-2(c)(7). The notice is not dated at all; a certificate of service is not a part of the notice form itself, and a date stated in the

certificate of service does not provide the date required by the foregoing sub-paragraph of the rule. Reference should be made to LBF 3a and LBF 3b, which will demonstrate that the date must be separately stated. The Court also notes that this particular notice states that a copy of an "objection" accompanies it. The document to which it relates is not an "objection", and thus the notice defectively describes the moving paper to which it relates.

IT IS ORDERED that the Court will take no action with respect to the Motion for Hardship Discharge filed on July 20, 2006 until notice in a form which complies with every requirement of this order is provided to all creditors and parties-in-interest in this case, and a certificate of service which establishes the provision of that notice has been filed with the Court.

IT IS FURTHER ORDERED that if a proper form of notice is not filed within 20 days of the date of entry of this order, the Court will deny the motion without further notice or hearing.

Dated at Hammond, Indiana on September 7, 2006.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtor, Attorney for Debtor  
Trustee, US Trustee